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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q. 485—Revised]

§ 301.72A — ADMINISTRATIVE INSTRUCTIONS

REMOVAL OF WHITE-FRINGED BEETLE CERTIFICATION REQUIREMENTS UNTIL JULY 1, 1939, FOR SPECIFIED ARTICLES CONSIGNED FROM DESIGNATED PORTIONS OF THE REGULATED AREAS

[Approved May 6, 1939; effective May 9, 1939]

Circular B. E. P. Q. 485, issued effective January 15, 1939,[1] waived certification requirements until July 1, 1939, for specified articles consigned from certain parts of the areas regulated under quarantine No. 72. The present revision adds additional areas in Louisiana from which certification of the same articles is waived from May 8 until July 1, 1939.

Under authorization provided in Notice of Quarantine No. 72 (Sec. 301.72),[2] all certification requirements are hereby waived during the regulated periods from May 8, to June 30, 1939, inclusive, of the following articles enumerated in Regulation 3 (*a*) and (*b*), (Sec. 301.72–3) [3] when free from soil and when consigned from any of the regulated areas in

Alabama: Mobile County;
Florida: Escambia County;
Louisiana: Parishes of East Baton Rouge, Jefferson, Orleans (including the city of New Orleans) and Plaquomines;
Mississippi: Counties of Hinds, Jackson, and Pearl River;

it having been determined that sanitary measures and natural conditions have sufficiently reduced the risk of egg or adult contamination as to render certification unnecessary during the period indicated:

Potatoes and sweetpotatoes.

Sweetpotato vines, draws, and cuttings.

Cordwood, pulpwood, stumpwood, and logs.

Used or unused lumber, timbers, posts, poles, crossties, and other building materials.

Hay, roughage of all kinds, straw, leaves, and leafmold.

Peas, beans, and peanuts in shells, or the shells of any of these products.

Seed cotton, cottonseed, baled cotton lint, and linters.

Used implements and machinery, scrap metal, junk, and utensils or containers coming in contact with the ground.

Brick, tiling, stone, and concrete slabs and blocks.

Nursery stock and other plants, which are free from soil.

The restrictions on the interstate movement from any of the regulated areas, of the following articles designated in paragraph (a) (1) of Regulation 3 of Quarantine No. 72 (Sec. 301.72–3), as carriers of larvae remain in effect throughout the year:

Soil, earth, sand, clay, peat, compost, and manure whether moved independent of, or in connection with or attached to nursery stock, plants, products, articles, or things.

(Sec. 301.72) [B.E.P.Q.—485, Rev. May 6, 1939]

[SEAL] LEE A. STRONG, *Chief.*

[F. R. Doc. 39–1567; Filed, May 9, 1939; 3:10 p. m.]

[1] 4 F.R. 395 DI.
[2] 3 F.R. 3003 DI.
[3] 3 F.R. 3005 DI.

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Ser. 1, No. 1, Sup. 6]

PART 401—WHEAT CROP INSURANCE REGULATIONS

AMENDMENTS TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, ap-

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RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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proved February 16, 1938, as amended by Public Law No. 691 of the 75th Congress, approved June 22, 1938, the Regulations Relating to Wheat Crop Insurance, as amended,[1] are hereby further amended as follows:

[1] 4 F.R. 1947 DI.

1. By amending subsection (d) of Section 71, Part 7 to read as follows:

"With respect to any portion of a crop in which the insured's interest is terminated, whether by voluntary transfer or process of law, before the crop is harvested, except as otherwise provided in Section 101 of these regulations, the production therefrom per acre shall be conclusively presumed to be equal to the adjusted average yield for the farm or the actual yield, whichever is higher."

2. By adding the following sentence at the end of Section 101, Part 10:

"In the event that the insured makes a voluntary transfer of his interest in a portion of the wheat crop to another person or persons, and such other person or persons comply with the provisions of the insurance contract as applied to such portion of the crop, the amount of loss shall be determined as if such transfer did not take place and the Corporation may pay the indemnity to the insured on behalf of the insured and such other person or persons having an interest in the crop, or may issue a joint check to the insured and such other person or persons."

Adopted by the Board of Directors on April 8, 1939.

[SEAL] M. L. WILSON,
Chairman.

Approved May 9, 1939.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-1581; Filed, May 10, 1939; 11:15 a.m.]

[Order No. 22, as amended.]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 922—MARKETING ORDERS[1]

ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA*

CONTENTS

Whereas, H. A. Wallace, Secretary of Agriculture of the United States of America, pursuant to the provisions of Public Act No. 10, 73d Congress, as amended (48 Stat. 31), and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), executed a marketing agreement and issued an order regulating the handling of milk in the Cincinnati, Ohio, marketing area, said marketing agreement and said order being effective May 1, 1938;[2] and

Whereas, the Secretary, having reason to believe that the amendment of said marketing agreement and of said order would tend to effectuate the declared policy of said act, gave, on the 18th day of March 1939, notice of a public hearing to be held at Cincinnati, Ohio,[3] which hearing was held on the 27th and 28th days of March 1939, on certain proposed amended provisions of said marketing agreement and of said order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amended provisions of said marketing agreement and of said order; and

Whereas, after such hearing and after the tentative approval, on the 22d day of April 1939, by the Secretary, of the marketing agreement, as amended, handlers of more than 50 percent of the volume of milk covered by such order, as amended, which is marketed within the Cincinnati, Ohio, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk; and

Whereas, the Secretary determined on the 9th day of May 1939,[4] said determination being approved by the President of the United States on the 9th day of May 1939, that said refusal or failure tends to prevent the effectuation of the declared policy of said act and that the issuance of this order, as amended, is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by over 67 percent of the producers who voted in a referendum conducted by the Secretary, and who, during the month of February 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Cincinnati, Ohio, marketing area; and

Whereas, the Secretary finds, upon the evidence introduced at the above-mentioned public hearing, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order and in addition to the other findings made prior to or at the time of the original issuance of said order (all of which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

[1] Code of Federal Regulations.

*Section 922.0 to and including Sec. 922.12 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV 1938).

[2] 3 F.R. 969 DI.

[3] 4 F.R. 1276 DI.

[4] See page 1982.

§ 922.0 *Findings.* 1. That the prices calculated to give milk handled in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk, and that the minimum prices set forth in this order, as amended, are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

2. That the order, as amended, regulates the handling of milk in the same manner as, and is applicable only to handlers specified in, the marketing agreement, as amended, upon which a hearing has been held; and

3. That the issuance of this order, as amended, and all of its terms and conditions will tend to effectuate the declared policy of the act:

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural marketing Agreement Act of 1937, hereby orders that such handling of milk in the Cincinnati, Ohio, marketing area as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in conformity to and in compliance with the following terms and conditions:

§ 922.1 *Definitions*—(a) *Terms.* The following terms shall have the following meanings:

(1) The term "Secretary" means the Secretary of Agriculture of the United States.

(2) The term "Cincinnati, Ohio, marketing area," hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.

(3) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(4) The term "producer" means any person who produces milk which is received at the plant of a handler from which milk is disposed of in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not disposed of milk to a handler for a period of 30 days prior to May 1, 1938, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months following the date of such first delivery to a handler, after which he shall be known as a producer.

(5) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.

(6) The term "delivery period" means any calendar month.

(7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(8) The term "market administrator" means the agency which is described in Sec. 922.2 for the administration hereof.

§ 922.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violations of the provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by Sec. 922.9, the cost of his bond, his own compensation, and all other expenses which are necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 922.3 or (b) made payments pursuant to Sec. 922.7 and Sec. 922.9.

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 922.3 *Reports of handlers.*—(a) *Submission of reports.* Each handler shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(1) On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.

(2) Within 10 days after the market administrator's request with respect to each producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received.

(3) On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total receipts of milk with the average butterfat test thereof, (b) the amount of the advance payment to such producer or new producer made pursuant to Sec. 922.7 (a), and (c) the deductions and charges made by the handler.

(4) On or before the 5th day after the end of each delivery period, the disposition of Class I milk outside the marketing area as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk was shipped, and (f) such other information with respect thereto as the market administrator may require.

(b) *Verification of reports.* Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.

§ 922.4 *Classification of milk*—(a) *Basis of classification.* Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.

(3) Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2½ percent of total receipts of milk, and (b) as used to produce a milk product other than one of those specified in Class II milk.

(c) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was used as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

(d) *Computation of butterfat in each class.* For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as defined in paragraph (b) of this section, as follows:

(1) Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by its average butterfat test, and (d) add together the resulting amounts.

(2) Determine the total pounds of butterfat in Class I milk as follows: (a) convert to half pints the quantity of milk disposed of in the form of milk or milk drinks, whether plain or flavored, and multiply by 0.5375, (b) multiply the result by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs (3) and (4) of this paragraph is less than the total pounds of butterfat received, computed in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this subparagraph.

(3) Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test and (b) add together the resulting amounts.

(4) Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of each of the several products of Class III milk by its average butterfat test, (b) subtract the total pounds of butterfat in Class I milk and Class II milk computed pursuant to subparagraphs (2) (b) and (3) of this paragraph and the total pounds of butterfat computed pursuant to (a) of this subparagraph from the total pounds of butterfat computed pursuant to subparagraph (1) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed 2½ percent of the total receipts of butterfat by the handler), and (c) add together the resulting amounts.

(5) Determine the classification of the butterfat received from producers and new producers, as follows:

(i) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.

(ii) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

(e) *Computation of milk in each class.* For each delivery period the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in Sec. 922.5 apply, as follows:

(1) Divide the total pounds of butterfat computed for each class in accordance with paragraph (d) (5) of this section by the average test of all milk received from producers and new producers by such handler.

§ 922.5 *Prices*—(a) *Class prices.* Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk received at such handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk—$2.35 per hundredweight: Provided, That where Class I milk is disposed of by the handler through a recognized relief agency the price shall be $1.95 per hundredweight.

Class II milk—$1.80 per hundredweight.

Class III milk—The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof: Provided, That for Class III milk disposed of as butter the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of butterfat by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from reports submitted by handlers pursuant to Sec. 922.3 (a), are less than 125 percent of the total quantity of butterfat disposed of in Class I milk and Class II milk by such handlers, computed pursuant to subparagraphs (2) and (3) of paragraph (d) of Sec. 922.4, the price last stated shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of the total quantity of milk received by the handler from producers and new producers which was disposed of as Class I milk and Class II milk, computed pursuant to Sec. 922.4 (e) (1).

(b) *Sales outside the marketing area.* The price to be paid by handlers for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to the handler's plant outside the marketing area where such milk was loaded on wholesale and retail routes.

(c) *Computation of value of milk for each handler.* For each delivery period the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:

(1) Multiply the hundredweight of milk in each class, computed in accordance with Sec. 922.4 (e) (1), by the respective class price for 4 percent milk: *Provided,* That if the average butterfat test of milk received from producers and new producers by such handler is more than 4 percent, there shall be added to the respective Class I and Class II prices for 4 percent milk, 4 cents per hundredweight, and to the respective prices for Class III milk as provided in paragraph (a) of this section there shall be added an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content above 4 percent; and, if the average butterfat content of milk received from producers and new producers by such handler is less than 4 percent, there shall be subtracted from the respective Class I and Class II prices for 4 percent milk, 4 cents per hundredweight, and from the respective prices for Class III milk as provided in paragraph (a) of this section there shall be deducted an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content below 4 percent.

(2) Add together the resulting amounts.

(3) If, in the verification of reports submitted by the handler, the market administrator discovers errors in such reports which result in payments due the producer-settlement fund for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.

(d) *Notification to each handler of value of milk.* On or before the 13th

day after the close of each delivery period the market administrator shall bill each handler for the value of milk computed in accordance with paragraph (c) of this section.

§ 922.6 *Determination and announcement of values and prices*—(a) *Computation of uniform price.* The market administrator shall compute the uniform price per hundredweight of milk received by handlers during each delivery period as follows:

(1) Add together the values of milk as computed in Sec. 922.5 (c) for each handler who made the payments to the producer-settlement fund as required by Sec. 922.7 (b).

(2) Subtract from this sum the total amount to be paid pursuant to Sec. 922.8 (a) (2).

(3) Subtract, if the average butterfat test of all milk is greater than 4 percent, or add, if the average butterfat test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundredweight of milk by the variance of such average butterfat test from 4 percent, and multiply the resulting amount by $0.40.

(4) Add the cash balance, if any, in the producer-settlement fund.

(5) Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in subparagraph (2) of this paragraph.

(6) Subtract the fraction of a cent, if any.

(b) *Announcement of prices and transportation rates.* On or before the beginning of the following delivery period the market administrator shall notify each handler of the uniform price for milk and of the prices for Class III milk, and shall make public announcement of the computation of the uniform price. From time to time the market administrator shall also publicly announce the amounts per hundredweight deducted by each handler from the payments made to producers and new producers pursuant to Sec. 922.8 for the transportation of milk from the farms of producers and new producers to such handler's plant or plants, as ascertained from reports submitted pursuant to Sec. 922.3 (a) (3).

§ 922.7 *Payment for milk*—(a) *Payment to producers.* On or before the 5th day after the end of each delivery period, each handler shall pay $1.00 per hundredweight of milk to each producer and $0.50 per hundredweight of milk to each new producer from whom he has received milk for all milk received during the delivery period.

(b) *Payment to producer-settlement fund.* On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator the amount of money which represents the value of milk billed to him for such delivery period, pursuant to Sec. 922.5 (d), less the amount paid out in accordance with paragraph (a) of this section, and less the amount of the deductions and charges authorized by the producer which are itemized on his producer pay roll. The market administrator shall maintain a separate fund, known as the producer-settlement fund, in which he shall deposit all payments of handlers received pursuant to this paragraph.

§ 922.8 *Payments to producers from producer-settlement fund*—(a) *Calculation of payments for each producer.* For each delivery period the market administrator shall calculate the payment due each producer and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows:

(1) Multiply the hundredweight of milk received from each producer by the uniform price computed in accordance with Sec. 922.6 (a): *Provided,* That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight;

(2) Multiply the total hundredweight of milk received from each new producer during said delivery period by the price for Class III milk not disposed of as butter, as provided in Sec. 922.5 (a): *Provided,* That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, an amount per hundredweight equal to $\frac{1}{40}$ of the price for Class III milk not disposed of as butter;

(3) Subtract, in each case, the amount of the advance payment made pursuant to Sec. 922.7 (a), the charges and the deductions, if any, which each producer and new producer has authorized to be made by the handler.

(b) *Payments.* On or before the 20th day after the end of each delivery period the market administrator shall pay, subject to the provisions of Sec. 922.10, to each cooperative association authorized to receive payments due producers or new producers who market their milk through such association, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such association as having authorized such association to receive such payment, and shall pay direct to each producer and new producer, who has not been certified as having authorized such association to receive such payments, the amount of the payment calculated pursuant to paragraph (a) of this section.

§ 922.9 *Expense of administration*—(a) *Payment by handlers.* As his prorata share of the expenses which will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler with respect to all milk received from producers and new producers, or produced by him, during the delivery period, shall pay to the market administrator, on or before the 17th day after the end of each delivery period, that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 13th day after the end of the delivery period by the market administrator.

§ 922.10 *Marketing services*—(a) *Deductions for marketing services.* The market administrator shall deduct an amount not exceeding 4 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made pursuant to Sec. 922.8 (b), with respect to those producers and new producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," for the purpose of performing for such producers and new producers the services set forth in paragraph (b) of this section.

(b) *Marketing services to be rendered.* The moneys received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information to, and for verification of weights, samples, and tests of milk received from producers and new producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to the review of the Secretary.

§ 922.11 *Effective time, suspension, or termination of order, as amended*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Termination or suspension of order, as amended.* The Secretary may terminate or suspend this order, as amended, whenever he finds that this order, as amended, obstructs or does not tend to effectuate the declared policy of the act. This order, as amended, shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such

suspension or termination: *Provided*, That any such acts required to be performed by the market adminstrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or by such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 922.12 *Liability*—(a) *Liability of handlers.* The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, as amended, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 10th day of May 1939, and declares this order, as amended, to be effective on and after the 13th day of May 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39–1582; Filed, May 10, 1939; 12:44 p. m.]

DETERMINATION BY THE SECRETARY OF AGRICULTURE, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO A PROPOSED ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the powers conferred upon him by the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereinafter called the act, having reason to believe that the issuance of an order, as amended, regulating the handling of milk in the Cincinnati, Ohio, Marketing Area, hereinafter called the marketing area, would tend to effectuate the declared policy of the act, gave, on the 18th day of March 1939, notice of a public hearing to be held at Cincinnati, Ohio,[1] which hearing was held on the 27th and 28th days of March 1939 on the amended provisions of the marketing agreement and of the order previously executed and issued regulating the handling of milk in the marketing area, at which time and place all interested parties were afforded an opportunity to be heard on the proposed amended provisions of said marketing agreement and of said order; and

Whereas, after such hearing and after the tentative approval, on the 22d day of April 1939, by the Secretary, of a marketing agreement, as amended, handlers of more than fifty percent of the volume of milk covered by this proposed order, as amended, which was marketed within the marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk;

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by the act, hereby determines:

(1) That the refusal or failure of handlers of more than fifty percent of the volume of milk marketed within the marketing area to sign such tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order, as amended, is the only practical means, pursuant to such policy, of advancing the interests of producers of milk produced for sale in the marketing area; and

(3) That the issuance of such order, as amended, is approved or favored by at least sixty-seven percent of the producers who voted in a referendum conducted by the Secretary and who, during the month of February 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the marketing area.

[1] 4 F.R. 1276 DI.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, has executed this determination in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 9th day of May 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
The President of the United States.

Dated, May 9, 1939.

[F. R. Doc. 39–1583; Filed, May 10, 1939; 12:44 p. m.]

TITLE 12—BANKS AND BANKING

FEDERAL DEPOSIT INSURANCE CORPORATION

RESTATEMENT OF RULE RELATIVE TO DEPOSITS EVIDENCED BY NEGOTIABLE INSTRUMENTS ADOPTED OCTOBER 1, 1935

§ 305.1 *Deposits evidenced by negotiable instruments.* If any insured deposit obligation of a bank be evidenced by a negotiable certificate of deposit, negotiable draft, negotiable cashier's or officer's check, negotiable certified check or negotiable traveler's check or letter of credit, the owner of such deposit obligation will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank provided the instrument was in fact negotiated to such owner prior to the date of the closing of the bank. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim. (Sec. 101 (m) (3), 49 Stat. 697; 12 U.S.C., Sup., 264 (m) (3)) [Rule in re deposits evidenced by negotiable instruments, FDIC, Oct. 1, 1935, as amended May 3, 1939]

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on May 3, 1939.

[SEAL] E. F. DOWNEY,
Secretary.

[F. R. Doc. 39–1573; Filed, May 10, 1939; 10:34 a. m.]

RESTATEMENT OF RULE RELATIVE TO DEPOSIT OBLIGATIONS FOR PAYMENT OF ITEMS FORWARDED FOR COLLECTION BY BANK ACTING AS AGENT ADOPTED ON MAY 20, 1937

§ 305.2 *Deposit obligations for payment of items forwarded for collection by bank acting as agent.* Where a closed bank has become obligated for the payment of items forwarded for collection by a bank acting solely as agent the owner of such items will be recognized for all purposes of claim for insured de-

posits to the same extent as if his name and interest were disclosed on the records of the bank when such claims for insured deposits, if otherwise payable, have been established by the execution and delivery of prescribed forms. Such bank forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured bank to the Federal Deposit Insurance Corporation and for the purpose of receiving payment on behalf of such owners. (Sec. 101 (m) (3), 49 Stat. 697; 12 U.S.C., Sup., 264 (m) (3)) [Res., May 20, 1937, as amended May 3, 1939]

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on May 3, 1939.

[SEAL] E. F. DOWNEY, *Secretary.*

[F. R. Doc. 39–1574; Filed, May 10, 1939; 10:34 a. m.]

RESTATEMENT OF RULE RELATIVE TO DEPOSITS OF PUBLIC OFFICERS ADOPTED JULY 1, 1938

§ 305.3 *Deposits of public officers.* The owner of any portion of a deposit appearing on the records of a closed bank under the name of a public official, state, county, city, or other political subdivision will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank: Provided, That the interest of such owner in the deposit is disclosed on the records maintained by such public official, state, county, city or other political subdivision and, Provided further, That such records have been maintained in good faith and in the regular course of business. (Sec. 101 (m) (3), 49 Stat. 697; 12 U.S.C., Sup., 264 (m) (3)) [Res., July 1, 1938, as amended May 3, 1939]

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on May 3, 1939.

[SEAL] E. F. DOWNEY, *Secretary.*

[F. R. Doc. 39–1575; Filed, May 10, 1939; 10:34 a. m.]

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 3]

CHILD LABOR

PART 441.—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE

Determination

MAY 8, 1939.

By virtue of and pursuant to the authority conferred by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); the Chief of the Children's Bureau having proposed to issue a regulation[1] relating to the employment of minors between 14 and 16 years of age in the occupations, for the periods and under the conditions therein specified; the provisions of the said proposed regulation being based upon the experience of the Children's Bureau in its administration of a temporary regulation[2] in effect from and after October 24, 1938, dealing with this subject, and upon the experience of those States which, while establishing a minimum age of at least 16 years for the employment of minors in manufacturing and mining occupations, have permitted the employment of minors below that age outside school hours in certain occupations deemed to be noninjurious to the health and well-being of such minors; a public hearing having been held with respect to the proposed regulation and all parties appearing at the hearing having been given opportunity to be heard, to question witnesses, and to file briefs and additional statements subsequent to the hearing; the record of the hearing having been duly considered and certain changes in the proposed regulation having been made in accordance with suggestions made at the hearing; opportunity having been given to all interested parties to file objections within 10 days following publication in the FEDERAL REGISTER[3] of the proposed regulation, as revised, and no objection disclosing just cause for further revision thereof having been received; and sufficient reason appearing therefor,

Now, therefore, I, Katharine F. Lenroot, Chief of the Children's Bureau of the United States Department of Labor, hereby determine and in the following regulation, effective May 24, 1939, provide that the employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

Regulation

§ 441.1 *Effect of this regulation.* In all occupations covered by this regulation the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions hereafter specified shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ 441.2. *Occupations.* This regulation shall apply to all occupations *other than* the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Chief of the Children's Bureau may, pursuant to section 3 (1) of the Act, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.

§ 441.3 *Periods and conditions of employment.* Employment in any of the occupations to which this regulation is applicable shall be confined to the following periods:

(a) Outside school hours;

(b) Not more than 40 hours in any one week when school is not in session;

(c) Not more than 18 hours in any one week when school is in session;

(d) Not more than 8 hours in any one day when school is not in session;

(e) Not more than 3 hours in any one day when school is in session;

(f) Between 7 a. m. and 7 p. m. in any one day, except in the distribution of newspapers;

(g) Between 6 a. m. and 7 p. m. in any one day, in the distribution of newspapers, except that during the period from April 1 to September 30 in each year the evening limit shall be 8 p. m.: *Provided, however,* That no minor shall be employed in the distribution of newspapers both before and after noon of any day when school is in session except between the hours of 7 a. m. and 7 p. m.;

(h) Paragraphs (f) and (g) hereof shall refer to standard time except that wherever daylight-saving time is adopted as the official time of a community paragraphs (f) and (g) shall refer to daylight-saving time.

§ 441.4 *Certificates of age, effect.* The employment of any mior in any of the occupations to which this regulation is applicable, if confined to the periods specified in section 441.3, shall not be deemed to constitute oppressive child labor within the meaning of the Act if the employer shall have on file an unexpired certificate, issued in substantially the same manner as that provided for

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[1] Proposed regulation made public in notice of hearing issued January 31, 1939, published in 4 F.R. 488 DI, February 1, 1939.

[2] Child Labor Regulation No. 3, "Temporary Regulation for Employment of Minors Between 14 and 16 Years of Age," issued October 21, 1938, published in 3 F.R. 2532 DI, October 22, 1938; as amended by Child Labor Regulation No. 3–A, issued November 3, 1938, published in 3 F.R. 2627 DI, November 4, 1938; and as extended by Child Labor Regulations Nos. 3–B and 3–C, issued January 10 and April 14, 1939, published in 4 F.R. 194 DI, January 12, 1939, and 4 F.R. 1620 DI, April 15, 1939, respectively.

[3] 4 F.R. 1688 DI, April 25, 1939.

the issuance of certificates in Part 401[4] relating to certificates of age or in Child Labor Regulation No. 1–A, as amended,[5] relating to temporary certificates of age, certifying that such minor is of an age between 14 and 16 years.

§ 441.5 *Effect on other laws.* No provision of this regulation shall under any circumstances justify or be construed to permit noncompliance with the wage and hour provisions of the Act or with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this regulation.

§ 441.6 *Effective period of regulation.* This regulation shall be in force and effect from May 24, 1939, until amended or repealed by regulations hereafter made by the Chief of the Bureau.

§ 441.7 *Revision of regulation.* Any person wishing a revision of any of the terms of this regulation may submit in writing to the Chief of the Bureau a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Chief of the Bureau believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to be heard.

[SEAL] KATHERINE F. LENROOT,
Chief.

[F. R. Doc. 39–1571; Filed, May 9, 1939; 4:16 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

CHAPTER II—RULES RELATING TO NAVIGABLE WATERS

PART 207—NAVIGATION REGULATIONS

§ 207.100 *Inland Waterway from Delaware River to Chesapeake Bay, Delaware and Maryland, Chesapeake and Delaware Canal; use, administration and navigation*[6]—(a) *Limits.* These regulations are applicable to the waterway known as the Chesapeake and Delaware Canal, which extends from Reedy Point on the Delaware River in the State of Delaware to Elk River in the State of Maryland, also to the branch canal which extends from the Chesapeake and Delaware Canal to the Delaware River at Delaware City.

(b) *Administrative authority.* The District Engineer, U. S. Engineer Office, Customhouse, Philadelphia, Pennsylvania, has administrative supervision over this waterway and is charged with the enforcement of these regulations. In carrying out his duties, the District Engineer will place in effect a dispatch and patrol system by means of which all traffic through the canal shall be aided and directed. A dispatcher will be on duty at all times at the U. S. Engineer Sub-Office, Chesapeake City, Maryland, and a patrol boat will at all times be on duty at each end of the main canal. All orders in aiding and directing traffic and in the enforcement of these regulations will be issued by the dispatcher through patrolmen operating the patrol boats.

(c) *Dimensions.* The present project, authorized by Congress August 30, 1935, provides for a channel 27 feet deep at mean low water (referred to canal datum at Reedy Point) and 250 feet bottom width from Delaware River to Elk River (canal datum is 2.99 feet below mean sea level). The canal has not yet been completed to project dimensions. Until entirely finished, the limiting dimensions of vessels transiting the canal shall be prescribed from time to time by the District Engineer, who may also prescribe the dimensions of those vessels which may be admitted only when assisted by towboats.

(d) *Anchorage basins and mooring dolphins.* An anchorage basin 12 feet deep is available on the south side of the channel, east of the Chesapeake City Bridge.

Mooring dolphins for vessels using the canal are provided on the north side of the channel at the eastern entrance of the canal at Reedy Point, and at the western entrance of the canal in Back Creek, about 5,000 feet west of Chesapeake City Bridge. Small vessels may tie up at the Government wharf at Chesapeake City.

These facilities are of a limited capacity and occupancy thereof for periods longer than absolutely necessary is prohibited. If it becomes necessary to use the facilities for longer than one twenty-four hour period, permission must be obtained from the dispatcher at Chesapeake City.

Emergency dolphins are provided on each side of the canal bridges. These dolphins are to be used for mooring in emergencies only.

(e) *Safe navigation required.* The right and privilege of any vessel to enter or pass through any part of this waterway will be contingent upon the vessel being properly equipped in personnel, machinery and mechanical devices for safe navigation. In the event of question as to the ability of the vessel to navigate the waterway in safety, a ruling thereon will be given by the dispatcher. Appeal or protest in reference to any ruling of the dispatcher may be carried to the District Engineer by the owner, agent, master or other person in authority over the movement of the vessel concerned. The granting of permission for any vessel to proceed through the canal shall not relieve the owners, agents and operators of said vessel of full responsibility for its safe passage.

(f) *Projections from vessels.* No vessel carrying a deck load which overhangs or projects over the sides of the said vessel shall be permitted to enter or pass through the waterway.

(g) Speed limits. No vessel in the canal shall be raced or crowded alongside another, nor shall it be moved at such a speed as will cause excessive wash. Speed shall be kept at a minimum consistent with safe navigation. All vessels, in passing other vessels, mooring dolphins, landings, wharves, dredging plant and other working craft, shall proceed cautiously to avoid wave and suction damage. Upon approaching any bridge the speed of vessels shall be so regulated that they will be under full control and, in the event that the span cannot be immediately raised, be able to stop in order to tie up to the emergency dolphins.

(h) *Traffic lights.* Navigation in and through the canal shall be governed by the following system of traffic lights. At the eastern entrance to the canal these lights are located on the outer end of the North Jetty; and at the western entrance, on the south bank of the canal, approximately 6,000 feet west of Chesapeake City bridge near station 83500.

Green light. Canal open to navigation.

Amber light. Caution, traffic restricted.

Red light. Canal closed to traffic. Vessel must tie up.

When traffic is restricted by the amber light, vessels shall obtain instructions from the patrol boat.

(i) *Handling of tows.* All ships or tugs engaged in towing vessels not equipped with a rudder, whether light or laden, shall use two towlines, and shall shorten them to the greatest extent possible so as to have full control of the tow. Ships and tugs towing vessels provided with rudders may use one towline, but it must be as short as practicable for the safe handling of the tow. No towboat shall be permitted to enter the canal with more than two loaded, or three light barges, in single file.

Towboats shall not be permitted to enter the canal if considered inadequate to handle their tows with safety.

A vessel being towed abreast must have the towboat on the port side. Towboats desiring to exchange tows must do so at the mooring dolphins.

No tug and barge abreast with a combined beam of more than 90 feet will be permitted to enter the canal except

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[4] Child Labor Regulation No. 1, "Certificates of Age," issued October 14, 1938, published in 3 F.R. 2487 DI, October 15, 1938; republished in 4 F.R. 1361 DI, March 29, 1939.

[5] Child Labor Regulation No. 1–A, "Temporary Certificates of Age," issued October 14, 1938, published in 3 F.R. 2531 DI, October 22, 1938; Child Labor Regulation No. 1–B, "Extension of Temporary Certificates of Age Regulation," issued January 19, 1939, published in 4 F.R. 402 DI, January 24, 1939; Child Labor Regulation No. 1–C, "Extension of Temporary Certificates of Age Regulation," issued April 14, 1939, published in 4 F.R. 1620 DI, April 15, 1939.

[6] These regulations supersede Section 207.100, Title 33, Code of Federal Regulations.

upon special arrangements made for a specific trip to the satisfaction of the District Engineer.

(j) *Rafts.* All tows of rafts must, before entering the canal, tie up and be inspected by a representative of the U. S. Engineer Sub-Office, Chesapeake City, Maryland, referred to in paragraph (b) above. Such tows must not exceed 65 feet in width or 800 feet in length. Ponton rafts exceeding 200 feet in length must be accompanied by two tugs, one forward and one aft, so that the tow can be kept strung out behind the forward tug and on the proper side of the channel. All rafts must be accompanied by sufficient crew to properly care for them at all times, and to see that they are secure when tied up.

Tows of rafts will not be permitted to enter the canal unless the transit of the canal can be completed during daylight hours.

(k) *Right of way.* All vessels proceeding with the current shall have the right of way over those proceeding against the current. Vessels up to 150 feet in length shall be operated so as not to interfere with the operation of vessels of greater length at bridges and bends. Large vessels and tows must not overtake and attempt to pass other large vessels or tows.

(l) *Bridges.* (1) There are three highway bridges and one railroad bridge crossing the main canal. All are of the vertical lift type. These bridges have the following clearances:

Name of bridge	Vertical clearances above local mean low water		Tide range	Horizontal clearance [1]
	Closed	Open		
	Feet	*Feet*	*Feet*	*Feet*
Reedy Point	11.5	139.4	5.5	168.2
Penna. R. R.	48.2	138.2	3.2	164.1
Summit	70.9	138.0	3.3	163.0
Chesapeake City	11.5	137.9	2.5	221.0

[1] These clearances may be diminished when new fenders are constructed.

NOTE.—The branch canal is crossed by a double-leaf bascule highway bridge at Delaware City, which has a vertical clearance, when closed, of 17.0 feet above mean low water, and a horizontal clearance between fenders of 60 feet. This bridge is only open for the passage of vessels between the hours of 8:00 a. m. and 4:00 p. m., Eastern Standard Time.

(2) The signal for the opening of a bridge shall be three blasts of a whistle or horn blown by the vessel or craft desiring to pass. If the span is to be raised immediately the bridge tender will reply with one blast of a whistle or horn. If the span is not to be raised immediately the bridge tender will reply with two blasts of a whistle or horn. Four blasts of a whistle or horn will be blown by the bridge tender to indicate that the bridge is open to navigation and that the vessel may proceed.

(3) The foregoing horn or whistle signals by the bridge tender will be supplemented by the following lights shown at the center of the drawspan in addition to and above the navigation lights referred to in subparagraph (4):

Flashing red light. Vessel must stop and tie up before reaching bridge.

Flashing amber light. Delay approach until vessel coming from opposite direction clears the bridge.

(4) The navigation lights at the center of the drawspan prescribed by the Bureau of Lighthouses, Department of Commerce, will show:

Fixed red light. Bridge closed to navigation, vessels unable to pass under closed drawspan must be kept under control so they can be stopped if necessary.

Fixed green light. Bridge open to navigation, vessels may proceed.

(5) Traffic lights controlling the approach of a westbound ship to the Chesapeake City Bridge, are located at the Chesapeake City Office, 1,353 feet east of the bridge. Normally the green light will be showing. Flashing amber and flashing red lights mean the same as those at the bridges.

(m) *Wharfage facilities.* Free wharfage is available on the west side of the anchorage basin at Chesapeake City, and at the anchorage basin at Delaware City on the north side of the channel. These wharves are for commercial use only, but may be used by pleasure vessels while loading supplies. Commercial vessels shall not tie up at the wharves for periods longer than twenty-four hours unless permission is first obtained from the dispatcher at Chesapeake City. Any craft using these facilities must have on board at all times a crew adequate to care properly for the craft, and the United States assumes no responsibility for damages which may be sustained while using such facilities.

(n) *Stopping in waterway.* Whenever a vessel stops in the land cut elsewhere than at the mooring dolphins, it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such place and under such conditions as will not obstruct or prevent the passage of other vessels or craft.

When thus tied up all vessels must be moored by not less than two lines each, and shall not be tied up more than one abreast. Sufficient crew to care properly for such vessels shall remain on board at all times.

Vessels that have been tied up or anchored in or at the entrance to the waterway shall not proceed until given clearance by the dispatcher.

Stoppages in the improved portions of the waterway shall be only for such period as may be necessary, and no vessel or craft will be allowed to use such portions of the waterway as a permanent or semipermanent place of mooring without the permission of the District Engineer.

Vessels may anchor in Elk River, but shall not anchor in the channel, and during the night shall display lights as required by the Federal Pilot Rules governing such cases.

(o) *Refuse.* The placing of any ashes or refuse, or of any material likely to cause an obstruction in the waterway or upon the banks or rights of way thereof is prohibited.

(p) *Trespass upon waterway property.* Trespass upon the waterway property or injury to the waterway, lands, banks, bridges, jetties, piers, fences, houses, trees, telephone lines, or to any other property of the United States pertaining to the waterway is prohibited.

(q) *Fish and game.* The fish and game laws of the United States and of the States of Delaware and Maryland, within their respective bounds, will be enforced upon the waters and lands pertaining to the waterway owned by the United States. The use of traps and nets upon the property is forbidden except upon written permission from the District Engineer.

(r) *Wrecked or damaged vessels.* In the event a vessel is grounded or wrecked in the canal or is so damaged by accident as to render it likely to become an obstruction in the canal, the District Engineer shall supervise and direct all operations that may be necessary to float the vessel, or clear the wreckage, or move the damaged vessel to a safe locality.

(s) *Commercial statistics.* Masters or pursers of vessel shall furnish the District Engineer or his authorized representative, on each passage through the canal, such written statement of passengers, freight, and vessel data as may be indicated by blank forms furnished for this purpose. Failure to furnish this statement will result in denial of the privilege of the canal to the offending vessel.

Blank forms may be obtained from the following:

District Engineer, U. S. Engineer Office, Customhouse, Philadelphia, Pennsylvania.

District Engineer, U. S. Engineer Office, Post Office Building, Baltimore, Maryland.

Resident Engineer, U. S. Engineer Office, Chesapeake City, Maryland.

The patrol boats in the canal.

Pilots.

(t) *When regulations become effective.* These rules and regulations shall take

effect and be in force from and after the date of approval hereof, and shall supersede the regulations approved December 31, 1937. (Sec. 7, River and Harbor Act, Aug. 8, 1917, 40 Stat. 266; 33 U.S.C. 1) [Regs., April 28, 1939 (E. D. 7041 (Chesapeake & Delaware Canal)–16/4)]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 39–1579; Filed, May 10, 1939; 10:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

REVISION OF REGULATIONS

EVIDENCE REQUIRED IN ESTABLISHING PROOF OF BIRTH, RELATIONSHIP, MARRIAGE, DEATH AND DEPENDENCY

Cause of Death, Direct or Contributory

§ 2.2519 (A) The death of a veteran will be considered as having been due to a service-connected disability when the evidence establishes that such disability was a principal or contributory cause of death. In determining whether the service-connected disability contributed to death, it is not sufficient to show that it was merely concurrent or coexistent, but rather it must be shown that it contributed substantially or materially; that it combined to cause death; that it aided or lent assistance to the production of death. It is not sufficient to show that it casually shared in producing death, but rather it must be shown that there was a causal connection.

(B) The issue involved will be determined by exercise of sound judgment, without recourse to speculation, after a careful analysis has been made of all the facts and circumstances surrounding the death of the veteran, including particularly autopsy reports. If additional evidence, or clarification or amplification of evidence of record, is considered necessary full development will be accomplished. This may be done by field examination, if necessary. (May 10, 1939.) (43 Stat. 608; 38 U.S.C. 426)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 39–1568; Filed, May 9, 1939; 3:20 p. m.]

REVISION OF REGULATIONS

ORTHOPEDIC AND PROSTHETIC APPLIANCES

§ 6.6115 (D) Artificial limbs and other orthopedic and prosthetic appliances or special clothing made necessary by the wearing of such appliances, may, upon medical determination and authorization, be furnished beneficiaries receiving domiciliary (barracks) care (1) when the disability requiring an artificial limb or appliance is service-connected; (2) when the artificial limb or other appliance is required as adjunct to a service-connected disability. Prosthetic appliances except artificial limbs and hearing devices which may not be furnished for the treatment of a service-connected disability or as adjunct to a service-connected disability may be procured or repaired for beneficiaries receiving domiciliary (barracks) care when such appliances are required as an incident of the care or treatment furnished such beneficiaries. They may also be supplied such special clothing as is made necessary by the wearing of a prosthetic appliance. In individual cases where in medical judgment, an artificial limb or hearing device or repair to either is required as an incident of the care or treatment furnished domiciliary members and may not be authorized for the treatment of a service-connected disability or as adjunct thereto, requests incorporating all facts and recommendations may be submitted to the medical director for approval. (See current medical procedure.) (May 10, 1939.) (48 Stat. 9; 38 U.S.C. 706)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 39–1569; Filed, May 9, 1939; 3:20 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

AIR NAVIGATION SITE WITHDRAWAL NO. 125, NEW MEXICO

APRIL 27, 1939.

It is ordered under and pursuant to the provisions of section 4 of the act of May 24, 1928, 45 Stat. 728, that the following-described public lands in New Mexico be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for the use of the Civil Aeronautics Authority in the maintenance of air navigation facilities:

New Mexico Principal Meridian

T. 13 S., R. 1 W.,
sec. 7, E½SW¼,
sec. 18, lots 2, 3 and 4, NE¼NW¼,
sec. 19, lot 1;
T. 16 S., R. 1 E.,
sec. 20, SW¼SW¼;
T. 24 S., R. 3 E.,
sec. 26, NE¼, SE¼SW¼, NW¼SE¼;
aggregating 576.77 acres.

And departmental order of April 8, 1935, creating New Mexico Grazing District No. 4, is hereby modified and made subject to the withdrawal made by this order in so far as it affects the hereindescribed lands.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 39–1578; Filed, May 10, 1939; 10:45 a. m.]

DIVISION OF GRAZING

UTAH GRAZING DISTRICT NO. 1

MODIFICATION

MARCH 29, 1939.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Utah Grazing District No. 1, is hereby revoked so far as it affects the following-described lands, such revocation to be effective upon the inclusion of the lands within the Cache National Forest:

UTAH

Salt Lake Meridian

T. 5 N., R. 1 E., sec. 1, secs. 9 to 24 inclusive, and N½ secs. 26 to 30 inclusive;
T. 7 N., R. 1 E., secs. 1 to 5 inclusive, NE¼ sec. 8, secs. 9, 10, 11, 13, and 15, N½, SE¼ sec. 16, N½ sec. 22, sec. 23, N½ secs. 25 and 26;
T. 8 N., R. 1 E., secs. 1, 2, 3, 5, 6, 7, 9 to 17 inclusive, sec. 19, and secs. 21 to 36 inclusive;
T. 9 N., R. 1 E., secs. 1, 12, 13, 19, 24 to 29 and 31 to 36 inclusive;
T. 10 N., R. 1 E., secs. 13, 24, 25, and 36;
T. 5 N., R. 2 E., secs. 1 to 29 inclusive, E½ sec. 30;
T. 6 N., R. 2 E., secs. 1 to 4 inclusive, E½ sec. 5, NE¼ sec. 9, N½ secs. 10 and 11, sec. 13, secs. 23 to 26 inclusive, S½ secs. 27 and 28, sec. 29, S½ sec. 30, secs. 31 to 36 inclusive;
T. 7 N., R. 2 E., secs. 1 to 9 inclusive, secs. 11, 13, 15, 16, 17, 19, 21, 23, 24, 25, 27, 29, NE¼ sec. 31, N½ sec. 32, secs. 33, 35, and 36;
Tps. 8 and 9 N., R. 2 E., all;
T. 10 N., R. 2 E., sec. 2, S½ sec. 7, sec. 9, secs. 13 to 36 inclusive;
T. 5 N., R. 3 E., secs. 2 to 11 inclusive, secs. 14 to 22 inclusive, and secs. 28, 29, and 30;
T. 6 N., R. 3 E., secs. 1 to 5 and 7 to 25 inclusive, secs. 27, 29, 31, 32, 33, 35, and 36;
T. 7 N., R. 3 E., secs. 2 to 9 and secs. 11 to 21 inclusive, secs. 23, 25, and secs. 27 to 36 inclusive;
T. 8 N., R. 3 E., all;
T. 9 N., R. 3 E., secs. 1 to 18 inclusive, secs. 21, 22, 23, 25, 26, and secs. 28 to 36 inclusive;
T. 10 N., R. 3 E., sec. 2, lots 2 to 16, SE¼ sec. 7, S½SW¼ sec. 8, secs. 12, 13, 16, 18, 19, 22, 24, 27, 28, and secs. 30 to 34 inclusive, sec. 36;
T. 11 N., R. 3 E., S½ sec. 25, sec. 36;
T. 6 N., R. 4 E., secs. 1, 2, 3, 5, 7, 9, 11, 12, 13, secs. 15 to 21 inclusive, secs. 23, 24, 25, 27, secs. 29 to 33 inclusive, and secs. 35 and 36;
T. 7 N., R. 4 E., secs. 2, 3, 4, 7, 10, 12, 13, 15, 16, 17, secs. 19 to 27 and secs. 29 to 36 inclusive;
T. 9 N., R. 4 E., sec. 2, S½ sec. 19, secs. 23, 26, 27, secs. 29 to 32 and secs. 34 to 36 inclusive;
T. 10 N., R. 4 E., secs. 2 to 5 inclusive, secs. 7, 11, 16, 18, and 36;
T. 11 N., R. 4 E., secs. 2, 3, 10, 11, 14, 15, 16, 22, 23, 26 to 32 inclusive;
T. 12 N., R. 4 E., sec. 36;
T. 6 N., R. 5 E., secs. 1 to 4 and secs. 6 to 11 inclusive, secs. 13, 15, 16, 17, secs. 19 to 23 inclusive, secs. 25, 27, 28, 29, and secs. 31 to 36 inclusive;
T. 7 N., R. 5 E., secs. 1, 2, 3, 5, 6, 7, 9, 11, 13, 15, 16, 17, 19, 20, 21, 23, 25, 26, 27, 29, and secs. 31 to 36 inclusive;
T. 10 N., R. 5 E., secs. 16 and 32;
T. 11 N., R. 5 E., sec. 16;
T. 6 N., R. 6 E., secs. 3, 4, 5, 7, 9, 10, 15, 16, 17, 19, 21, 22 and secs. 25 to 36 inclusive;
T. 7 N., R. 6 E., secs. 7, 17, 18, 19, 21, 27, 29, and secs. 31 to 34 inclusive;

T. 5 N., R. 1 W., secs. 13, 14, 24, and N½ sec. 25.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 39–1577; Filed, May 10, 1939; 10:44 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A–99 O–99]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER REGULATING HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF FRESH PEARS GROWN IN STATES OF OREGON, WASHINGTON, AND CALIFORNIA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended,[1] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to such handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California, at the following times and places:

May 26, 1939, at 9:30 a. m., Blue Anchor Building, Sacramento, California;

May 29, 1939, at 11:00 a. m., Jackson County Court House, Medford, Oregon;

May 31, 1939, at 9:30 a. m., Pythian Hall, Hood River, Oregon;

June 1, 1939, at 9:30 a. m., Chamber of Commerce Building, Yakima, Washington.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each provides, in similar terms, a plan for the regulation of such handling of the aforesaid pears as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce. Among other matters relating to such regulation, the proposed marketing agreement and order provide for: (a) the establishment of a Control Committee consisting of twelve (12) members, of whom six (6) shall be grower members and six (6) shall be handler members; (b) regulation of shipments by grade and size; (c) inspection of all shipments of pears by a duly authorized representative of the Federal-State Inspection Service; (d) levying of assessments by the Control Committee to cover expenses of administration; and (f) reports to the Control Committee by handlers.

Copies of the proposed marketing agreement and proposed order may be obtained from the Hearing Clerk, Office of the Solicitor, in Room 0310, South Building, United States Department of Agriculture, Washington, D. C., or may be there inspected.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated, May 9, 1939.

[F. R. Doc. 39–1580; Filed, May 10, 1939; 11:15 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 38–401(E)–1]

PAN AMERICAN-GRACE AIRWAYS, INC.

Application for a permanent certificate of public convenience and necessity under Section 401 (e) (1) of the Civil Aeronautics Act of 1938, to engage in scheduled air transportation in the carriage of passengers, property and mail over the route between Cristobal (Canal Zone) and Buenos Aires (Argentina), with intermediate stops in Colombia, Ecuador and Peru and thence (a) with intermediate stops in Chile and Argentina with connecting service between Chile and Bolivia and (b) with intermediate stops in Bolivia (or in Chile and Bolivia) and Argentina.

NOTICE OF POSTPONEMENT OF HEARING

MAY 9, 1939.

Public hearing in the above-entitled proceeding now assigned for May 22, 1939,[1] is hereby postponed to June 14, 1939, 10 o'clock a. m. (Eastern Standard Time) at the offices of the Civil Aeronautics Authority (Conference Room A, Departmental Auditorium) in Washington, D. C., before Examiner F. A. Law, Jr.

F. A. LAW, Jr.,
Examiner.

[F. R. Doc. 39–1584; Filed, May 10, 1939; 12:47 p. m.]

[Docket No. 14–401 (E)–1]

PAN AMERICAN AIRWAYS, INC.

Application for a permanent certificate of public convenience and necessity under section 401 (e) (1) of the Civil Aeronautics Act of 1938, to engage in scheduled air transportation in the carriage of passengers, property and mail, over routes between:

Miami, Florida, and Buenos Aires, Argentina; via Cuba; Haiti; Dominican Republic; San Juan, Puerto Rico; St. Thomas, Virgin Islands; British West Indies; Guadeloupe, Martinique; Trinidad; British Guiana; Netherlands Guiana; French Guiana; Brazil, (including Rio de Janeiro); Paraguay; and Uruguay; or any combination of two or more of said countries or places.

Miami, Florida, and Cristobal, Canal Zone, via Cuba; Jamaica; and Colombia; or any one or more of said countries.

Miami, Florida, and Colombia; via Cuba and Jamaica; or any one or more of said countries.

Miami, Florida, and Havana, Cuba.

Miami, Florida, and the Bahama Islands.

Miami, Florida, and Merida, Mexico, via Cuba; and between Merida, Mexico, and Belize, British Honduras.

Cristobal, Canal Zone, and Trinidad; via Colombia and Venezuela; or any one or more of said countries.

Brownsville, Texas, and Cristobal, Canal Zone; via Mexico; Guatemala; El Salvador; Honduras; Nicaragua; Costa Rica; Panama; and Balboa, Canal Zone; or any combination of one or more of said countries or places.

Brownsville, Texas, and Mexico City, Mexico; with or without an intermediate stop or intermediate stops in Mexico.

Haiti and Jamaica; with an intermediate stop in Cuba, (except that authorization for the transportation of United States mail on this route is not included in this application).

Miami, Florida, and Venezuela; via Cuba and Haiti; or any one or more of said countries (except that authorization for the transportation of United States mail on the sector of this route between Haiti and Venezuela is not included in this application).

[Docket No. 27–401 (E)–1]

PANAMA AIRWAYS, INC.

Application for a permanent certificate of public convenience and necessity under section 401 (e) (1) of the Civil Aeronautics Act of 1938, to engage in scheduled air transportation in the carriage of passengers and property over a route

[1] 1 F.R. 155.

[1] 4 F.R. 1331 DI.

between Cristobal, Canal Zone, and Balboa, Canal Zone.

[Docket No. 28-401 (E)-1]

URABA, MEDELLIN AND CENTRAL AIRWAYS, INC.

Application for a permanent certificate of public convenience and necessity under section 401 (e) (1) of the Civil Aeronautics Act of 1938, to engage in scheduled air transportation in the carriage of passengers, property and mail over a route between Cristobal, Canal Zone, and Medellin, Colombia, with intermediate stops at Balboa, Canal Zone, and at Turbo, Colombia.

NOTICE OF POSTPONEMENT OF HEARING

MAY 9, 1939.

Public hearing in the above-entitled proceedings now assigned on May 15, 1939,[1] is hereby postponed to June 1, 1939, 10 o'clock a. m. (Eastern Standard Time) at the offices of the Civil Aeronautics Authority (Conference Room "A" Departmental Auditorium) in Washington, D. C. before Examiner F. A. Law, Jr.

F. A. LAW, Jr.,
Examiner.

[F. R. Doc. 39-1585; Filed, May 10, 1939; 12:48 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3783]

IN THE MATTER OF MODERN MARKETING SERVICE, INC., A CORPORATION; RED AND WHITE CORP., A CORPORATION; DIAMOND MATCH CO., A CORPORATION; MORTON SALT CO., A CORPORATION; QUAKER OATS CO., A CORPORATION; RALSTON-PURINA CO., A CORPORATION; WESSON OIL AND SNOWDRIFT SALES CO., A WHOLLY OWNED SUBSIDIARY OF WESSON OIL AND SNOWDRIFT CO., INC., A CORPORATION; STANDARD RICE CO., A CORPORATION; PROCTOR & GAMBLE, A CORPORATION; S. M. FLICKINGER CO., INC., A CORPORATION; JULLIARD COCKCROFT CORP., A CORPORATION; LAURANS BROTHERS, INC., A CORPORATION; WEST COAST GROCERY CO., A CORPORATION; H. O. WOOTEN GROCERY CO., A CORPORATION; AND NASH-FINCH CO., A CORPORATION

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of Subsection (c), Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Section 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Modern Marketing Service, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 222 West North Bank Drive, Chicago, Illinois.

PAR. 2. Respondent Red and White Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at 222 West North Bank Drive, Chicago, Illinois.

PAR. 3. Respondent Diamond Match Company is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 30 Church Street, New York, New York.

Respondent Morton Salt Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 208 West Washington Street, Chicago, Illinois.

Respondent Quaker Oats Company is a corporation organized and existing under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 141 West Jackson Street, City of Chicago, State of Illinois.

Respondent Ralston-Purina Company is a corporation organized and existing under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 835 South 8th Street, St. Louis, Missouri.

Respondent Wesson Oil and Snowdrift Sales Company is a wholly owned subsidiary of the Wesson Oil & Snowdrift Company, Inc., a corporation organized and existing under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 1701 Canal Bank Bldg., New Orleans, Louisiana.

Respondent Standard Rice Company is a corporation organized and existing under and by virtue of the laws of the State of Texas, with its principal office and place of business located at Butler and Spring Sts., Houston, Texas.

Respondent Procter & Gamble Company is a corporation organized and existing under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at Gwynen Bldg., Cincinnati, Ohio.

The respondents in this paragraph named are hereinafter designated and referred to as "seller respondents." Said seller respondents and each of them are and since June 19, 1936, have been, engaged in the business of selling commodities, particularly foodstuffs, groceries and allied products, to numerous buyers, including the buyer respondents hereinafter set out. Said seller respondents are fairly typical and representative members of a large group or class of manufacturers, processors and producers engaged in the common practice of selling a substantial portion of their commodities to buyers who purchase through respondent Modern Marketing Service Inc., as intermediary for buyers. Said group or class of sellers is comprised of a large number of such manufacturers, processors and producers, too numerous to be individually named herein as respondents or to be brought before the Commission in this proceeding without manifest inconvenience and delay.

PAR. 4. Respondent S. M. Flickinger Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at Bailey Avenue and Clinton St., Buffalo, New York.

Respondent Julliard Cockcroft Corporation is a corporation organized and existing under and by virtue of the laws of the State of California, with its principal office and place of business at 170 West Lake Avenue, Watsonville, California.

Respondent Laurans Brothers, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business at 5 Pearl Street, New Bedford, Massachusetts.

Respondent West Coast Grocery Company is a corporation organized and existing under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 1732 Pacific Avenue, Tacoma, Washington.

Respondent H. O. Wooten Grocery Company is a corporation organized and existing under and by virtue of the laws of the State of Texas, with its principal office and place of business located at the corner of First and Walnut Streets, Abilene, Texas.

Respondent Nash-Finch Company is a corporation organized and existing under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 430 Oak Grove, Minneapolis, Minnesota.

The respondents in this paragraph named are hereinafter designated and referred to as "buyer respondents." Each of the said buyer respondents is engaged in the wholesale grocery business and is a stockholder of the respondent Red and White Corporation. Said buyer respondents are named as parties respondent both individually and as representative of a group or class of a large number of wholesale grocery concerns, each of whom is likewise a stockholder in the Red and White Corporation.

PAR. 5. Respondent Modern Marketing Service, Inc., is now and since the time of its incorporation and organization on or about October 1, 1936, has been engaged in the business of providing purchasing and other services for the buyer respondents named in Paragraph Four hereof.

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[1] 4 F.R. 1331 DI.

In the course and conduct of its business, respondent Modern Marketing Service, Inc., receives orders from the buyer respondents to purchase commodities for the buyer respondents named herein and transmits such orders as agent for said buyer respondents to the seller respondents and other sellers. As a result of the transmission of said orders by said buyers to respondent Modern Marketing Service, Inc., the execution of same by said respondent Modern Marketing Service, Inc., for and on behalf of said buyers, and the acceptance of said orders by said seller respondents and other sellers, goods, wares and merchandise, particularly foodstuffs, are by each of the said seller respondents and other sellers shipped from the state in which such merchandise is located at the time of sale into and through the various other states of the United States, directly, to each of said buyer respondents.

In the course of the buying and selling transactions hereinabove referred to resulting in the delivery of products from said seller respondents to the buyer respondents, said seller respondents, since June 19, 1936, have transmitted, paid and delivered, and do transmit, pay and deliver to the respondent Modern Marketing Service, Inc., so-called brokerage fees or commissions, the same being percentages of the quoted sales prices agreed upon by the said seller respondents and the respondent Modern Marketing Service, Inc. Respondent Modern Marketing Service, Inc., since June 19, 1936, has received and accepted and is receiving and accepting such so-called brokerage fees or commissions upon the purchases of the buyer respondents.

Approximately 98% of the gross income of respondent Modern Marketing Service, Inc., is derived from so-called brokerage fees and commissions paid by the seller respondents and other sellers to the respondent Modern Marketing Service, Inc., upon the purchases of the buyer respondents and other buyers in the manner and form hereinabove described.

Said respondent Modern Marketing Service, Inc., was organized and incorporated by former officers of the respondent Red and White Corporation who resigned their positions as such officers with the respondent Red and White Corporation to form the respondent Modern Marketing Service, Inc., for the purpose of having Modern Marketing Service, Inc., to act as the purchasing agent for the buyer respondents.

PAR. 6. Respondent Red and White Corporation was organized on or about December 27, 1927, and engaged in the business of providing purchasing and other services for the buyer respondents until October 1, 1936. Respondent Red and White Corporation, in addition to providing the aforesaid services, furnished store front services through the buyer respondents for various customers of such buyer respondents as hereinafter set out.

In the course and conduct of its business, as aforesaid, prior to October 1, 1936, said respondent, Red and White Corporation, received orders to purchase commodities, particularly groceries and foodstuffs, from its various stockholders, consisting of wholesale grocery concerns, as aforesaid, a representative number of which are the buyer respondents, and transmitted such orders as the agent of said buyer respondents to the aforesaid seller respondents. As a result of such transmission of said orders, by such buyer respondents to respondent Red and White Corporation, the execution of same by said respondent Red and White Corporation, for and on behalf of said buyer respondents, and the acceptance of said orders by said seller respondents and other sellers, goods, wares and merchandise, particularly foodstuffs, were, by the above-named seller respondents, and other sellers, shipped from the state in which such merchandise was located at the time of sale, into and through the various states of the United States, directly, to said buyer respondents in the states of their respective locations as aforesaid.

The services furnished by the respondent Red and White Corporation, other than the purchasing service hereinbefore described, are as follows:

The respondent Red and White Corporation furnished to the buyer respondents a service which consisted of keeping its stockholders advised, by bulletins and otherwise, of market conditions and prices of commodities offered for sale by the seller respondents and other sellers.

Respondent Red and White Corporation furnished to the buyer respondents a service which consisted of the preparation and distribution by the respondent Red and White Corporation of window display banners, placards, a matrix service for newspapers, weekly hand-bills under the title of "News Flashes" and also a monthly magazine published under the title of "Hy-Lites."

In addition to the above described services, said respondent Red and White Corporation pursued a practice and policy of serving the buyer respondents by attempting to stimulate and increase the sales of said buyer respondents by causing to be organized various local groups of retail grocery stores in approximately 35 states of the United States who became affiliated with and who cooperated with said respondent Red and White Corporation; by using respondent's name "Red and White" on their stores in connection with the sale and distribution of foodstuffs and other commodities purchased from buyer respondents; by using certain specified services furnished by the respondent Red and White Corporation and by instructing and assisting the said retailers in the use of said combined services, uniform display posters, suggested store arrangements and various sundry centralized sales plans and various other ways.

The cost of the services, as performed by the respondent Red and White Corporation prior to October 1, 1936, in the manner hereinabove described, was defrayed from funds derived from so-called brokerage fees paid by the seller respondents and other sellers upon purchases of the buyer respondents.

PAR. 7. On or about October 1, 1936, said respondent Red and White Corporation entered into a contract with the respondent Modern Marketing Service, Inc., whereby the brands, trade-marks and labels owned or controlled by the respondent Red and White Corporation were leased to the respondent Modern Marketing Service, Inc. Pertinent provisions of said contract are as follows:

"License Agreement

"This agreement made in duplicate October 1, 1936, by and between Red & White Corporation, a corporation organized and existing under and by virtue of the laws of the state of New York, and having its principal office in the city of Buffalo, New York (hereinafter referred to as the Licensor), party of the first part, and Modern Marketing Service, Inc., a corporation organized and existing under and by virtue of the laws of the state of Illinois and having its principal office in the city of Chicago, Illinois (hereinafter referred to as the Licensee) party of the second part.

"Witnesseth, That

"Whereas, the Licensor owns or controls as Licensee various brands, trade names and trade marks known and used in the grocery business throughout the United States, and the good will associated therewith, which brands, trade names and trade marks, together with specification of the Licensor's ownership or control thereof, are set forth in Schedule A annexed hereto; and

"Whereas, said ownership and control of said brands, trade names and trade marks are subject to various existing contracts between the Licensor and its stockholders and/or others; and

"Whereas, the licensee is engaged in the general grocery brokerage business throughout the United States and desires the right, privilege and authority to use and deal in said brands, trade names and trade marks subject to said existing contract;

"Now, therefore, in consideration of the mutual covenants and agreements herein contained, the sum of One Dollar ($1.00) by each party to the other in hand paid, receipt whereof is hereby acknowledged, and other good and valuable considerations, the parties hereto hereby mutually covenant and agree as follows:

"1. The Licensee for the period of one year from the date hereof shall have the exclusive right, privilege and authority throughout the United States to use and deal in, with jobbers or wholesalers, the

brands, trade names and trade marks which are owned or controlled by the Licensor as aforesaid and which are set forth in a certain schedule marked Schedule A, annexed hereto and made a part hereof, and to sublicense manufacturers to pack, ship and sell to jobbers or wholesalers goods and merchandise bearing said brands, trade names and trade marks, subject, however, to any and all existing contracts between the Licensor and its stockholders and/or others relative to said brands, trade names and trade marks.

"2. In consideration thereof, the Licensee has paid to the Licensor the sum of Thirty Thousand Dollars ($30,000.00), receipt whereof is hereby acknowledged.

"3. While this agreement shall be in effect, the Licensor shall not license any other person, firm, association or corporation similarly to use or deal in said brands, trade names and trade marks, or similarly to sublicense thereunder; provided, however, that nothing in this agreement shall prohibit the Licensor from selling its capital stock or from acquiring new stockholders, and all benefits, reservations, rights and privileges inuring to the benefit of or belonging to the present stockholders of the Licensor, in or by the terms of this agreement, shall also at all times inure to the benefit of and belong to such new stockholders.

"4. At any time, for distribution only in the territories alloted to them severally in their respective existing contracts with Red & White Corporation:

"(a) Stockholders of the Licensor may affix said brands, trade names and trademarks to unbranded seasonal canned goods purchased by them from or through sources other than the Licensee, and to goods manufactured by themselves, subject, however, to all terms, conditions and limitations contained in said existing contracts; and

"(b) H. A. Marr Grocery Company, one of the stockholders of the Licensor, may also affix said brands, trade names and trade marks to unbranded manufactured goods purchased by it from or through sources other than the Licensee.

"5. The Licensee, at all times, shall furnish labels bearing said brands, trade names and trade marks to stockholders of the Licensor upon their request, in accordance with paragraph 4 hereinabove, and at cost, plus a handling charge of 15%.

"6. The Licensee shall require that said brands, trade names or trade marks be used only on products of equal quality to those specified in Schedule A annexed hereto.

"7. The license herein granted shall extend for the period of one year from October 1, 1936, and shall be renewed for successive yearly periods upon terms and conditions to be agreed upon mutually, unless either party shall, before September 1 of any year, give written notice to the President of the other party of its intention to terminate the license at the end of such yearly period."

Pursuant to its obligation under the hereinabove described lease the respondent Modern Marketing Service, Inc., has performed the same services for and on behalf of the buyer respondents which were performed for the buyer respondents by the respondent Red and White Corporation prior to October 1, except as follows:

Respondent Red and White Corporation, since October 1, 1936, has continued to perform the store front services for the buyer respondents which it performed for said buyer respondents prior to October 1, 1936.

The cost of the store front services as performed by the respondent Red and White Corporation subsequent to October 1, 1936, is defrayed from the $30,000 income received by the respondent Red and White Corporation pursuant to the aforesaid leasing agreement which $30,000 has its origin in the so-called brokerage fees and commissions received by the respondent Modern Marketing Service, Inc., upon purchases of the buyer respondents.

The cost of the services, as hereinbefore described, as performed by the respondent Modern Marketing Service, Inc., pursuant to its obligation under the hereinabove described lease, is now and has been paid from funds derived from so-called brokerage fees paid by the seller respondents and other sellers to the respondent Modern Marketing Service, Inc., upon the purchases of the buyer respondents.

PAR. 8. Upon the execution of the aforesaid contract, said respondent Modern Marketing Service, Inc., took over the existing lease for the premises occupied by Red and White Corporation and notified all seller respondents who had previously dealt with the respondent Red and White Corporation that said Modern Marketing Service, Inc., had become the lessee of the brands, trade marks and labels formerly owned and controlled by the respondent Red and White Corporation and desired to be appointed as broker for such sellers' products. When directed or requested by the respondent Modern Marketing Service, Inc., such sellers caused products purchased by the buyer respondents through the respondent Modern Marketing Service, Inc., as intermediary for said buyer respondents, to be labeled with the brands and trade marks of which Modern Marketing Service, Inc., is the lessee.

PAR. 9. In all of the buying and selling transactions hereinabove referred to, the so-called brokerage fees or commissions are paid and transmitted by the seller respondents and other sellers to and accepted and received by the respondent Modern Marketing Service, Inc., upon the purchases of the buyer respondents, while the said respondent Modern Marketing Service, Inc., is acting in fact for and on behalf of buyer respondents, for which said so-called brokerage fees or commissions no services whatsoever have been rendered or are now being rendered in connection with such purchases for or to said seller respondents and other sellers by respondent Modern Marketing Service, Inc.

The so-called brokerage fees and commissions paid by the seller respondents and other sellers to respondent Modern Marketing Service, Inc., as intermediary, upon the purchases of the buyer respondents are transmitted to and accepted and received by the buyer respondents in the form of services performed by the respondents, Modern Marketing Service, Inc., and Red and White Corporation for and on behalf of said buyer respondents.

PAR. 10. The transmission and payment of said so-called brokerage fees or commissions by the seller respondents and others to the respondent Modern Marketing Service, Inc., upon the purchases of buyer respondents, and the receipt and acceptance thereof by the respondents Modern Marketing Service, Inc., Red and White Corporation and the buyer respondents, in the manner and under the circumstances hereinabove set forth, is in violation of the provisions of Section 2, subsection (c) of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936.

Wherefore, the Premises Considered, the Federal Trade Commission, on this 6th day of May, A. D. 1939, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, Modern Marketing Service, Inc., a corporation; Red and White Corporation, a corporation; Diamond Match Company, a corporation; Morton Salt Company, a corporation; Quaker Oats Company, a corporation; Ralston-Purina Company, a corporation; Wesson Oil and Snowdrift Sales Company, a wholly owned subsidiary of Wesson Oil and Snowdrift Company, Inc., a corporation; Standard Rice Company, a corporation; Procter & Gamble, a corporation; S. M. Flickinger Company, Inc., a corporation; Julliard Cockcroft Corporation, a corporation; Laurans Brothers, Inc., a corporation; West Coast Grocery Company, a corporation; H. O. Wooten Grocery Company, a corporation; and Nash-Finch Company, a corporation, respondents herein, that the 9th day of June, A. D. 1939, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondents shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 6th day of May, A. D. 1939.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-1570; Filed, May 9, 1939; 3:28 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of May, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3646]

IN THE MATTER OF THE C. F. SAUER COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 12, 1939, at ten o'clock in the forenoon of that day (eastern standard time) in hearing room, Federal Building, Richmond, Virginia.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-1572; Filed, May 10, 1939; 9:54 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 342]

ALLOCATION OF FUNDS FOR LOANS

MAY 6, 1939.

I hereby supplement Administrative Order No. 294 by alloting, pursuant to subsection (c) of Section 3 of the Rural Electrification Act of 1936, as amended by the Rural Electrification Act of 1938, the sum of $70,000,000, being fifty per centum of the sums made available or appropriated for the purposes of said Rural Electrification Act of 1936 as so amended, for the fiscal year ending June 30, 1939, for loans in the several States as follows:

United States	$70,000,000
Alabama	3,265,378
Arizona	150,271
Arkansas	3,122,020
California	746,108
Colorado	644,940
Connecticut	156,257
Delaware	104,422
Florida	909,392
Georgia	3,001,666
Idaho	296,984
Illinois	2,285,470
Indiana	1,882,300
Iowa	2,281,962
Kansas	1,880,634
Kentucky	3,513,322
Louisiana	2,068,025
Maine	309,514
Maryland	389,816
Massachusetts	168,533
Michigan	1,271,543
Minnesota	2,225,906
Mississippi	3,956,435
Missouri	3,151,362
Montana	465,760
Nebraska	1,429,426
Nevada	28,008
New Hampshire	103,265
New Jersey	106,796
New Mexico	495,254
New York	1,102,896
North Carolina	3,440,151
North Dakota	900,268
Ohio	1,887,547
Oklahoma	2,529,704
Oregon	497,858
Pennsylvania	1,267,984
Rhode Island	2,261
South Carolina	1,927,755
South Dakota	886,061
Tennessee	3,245,186
Texas	5,843,996
Utah	145,823
Vermont	232,542
Virginia	2,112,452
Washington	510,770
West Virginia	1,236,533
Wisconsin	1,647,174
Wyoming	172,270

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-1576; Filed, May 10, 1939; 10:44 a. m.]